

ORIGINAL

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Third-Party Defendants

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JAN 13 2006

at 6 o'clock and 20 min. PMP
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD., a	)	CIVIL NO. 04-00124 ACK/BMK
Japanese corporation,)	
	)	THIRD-PARTY DEFENDANTS SPORTS
Plaintiff,	)	SHINKO (USA) CO., LTD., SPORTS
	)	SHINKO (HAWAII) CO., LTD.,
vs.	)	SPORTS SHINKO (MILILANI) CO.,
	)	LTD., SPORTS SHINKO (KAUAI)
QK HOTEL, LLC, a Hawai'i limited	)	CO., LTD., SPORTS SHINKO
liability company, KG HOLDINGS,	)	(PUKALANI) CO., LTD., SPORTS
LLC, a Hawai'i limited liability	)	SHINKO RESORT HOTEL
company, FRANKLIN K. MUKAI,	)	CORPORATION, SPORTS SHINKO
	)	(WAIKIKI) CORPORATION AND
Defendant.	)	OCEAN RESORT HOTEL
	)	CORPORATION'S ANSWER TO
	)	DEFENDANT FRANKLIN K. MUKAI'S
FRANKLIN K. MUKAI,	)	THIRD-PARTY COMPLAINT FILED
	)	ON SEPTEMBER 26, 2005;
Third-Party Plaintiff,	)	THIRD-PARTY COUNTERCLAIM
	)	AGAINST FRANKLIN K. MUKAI,
vs.	)	ET AL.; SUMMONS; CERTIFICATE
	)	OF SERVICE
SPORTS SHINKO (USA) CO.; LTD.,)	
a Delaware corporation; SPORTS)	
SHINKO (HAWAII) CO., LTD., a)	
Hawai'i corporation; SPORTS	)	NO TRIAL DATE SET
SHINKO (MILILANI) CO., LTD.,)	
a Hawai'i corporation; SPORTS)	

SHINKO (KAUAI) CO., LTD., a)
Hawai'i corporation; SPORTS)
SHINKO (PUKALANI) CO., LTD.,)
a Hawai'i corporation; SPORTS)
SHINKO RESORT HOTEL CORPORATION,)
a Hawai'i corporation; SPORTS)
SHINKO (WAIKIKI) CORPORATION,)
a Hawai'i corporation; and)
OCEAN RESORT HOTEL CORPORATION,)
a Hawai'i corporation,)

Third-Party)
Defendants.)

SPORTS SHINKO (HAWAII) CO.,)
LTD., a Hawai'i corporation;)
SPORTS SHINKO RESORT HOTEL)
CORPORATION, a Hawai'i)
corporation; and SPORTS SHINKO)
(WAIKIKI) CORPORATION, a Hawai'i)
corporation,)

Third-Party Defendants/)
Counterclaimants,)

vs.)

QK HOTEL, LLC, a Hawai'i limited)
liability company, KG HOLDINGS,)
LLC, a Hawai'i limited liability)
company, FRANKLIN K. MUKAI,)

Third-Party Counterclaim)
Defendants.)

THIRD-PARTY DEFENDANTS SPORTS SHINKO (USA) CO., LTD.,
SPORTS SHINKO (HAWAII) CO., LTD., SPORTS SHINKO (MILILANI) CO.,
LTD., SPORTS SHINKO (KAUAI) CO., LTD., SPORTS SHINKO (PUKALANI)
CO., LTD., SPORTS SHINKO RESORT HOTEL CORPORATION, SPORTS SHINKO
(WAIKIKI) CORPORATION AND OCEAN RESORT HOTEL CORPORATION'S
ANSWER TO DEFENDANT FRANKLIN K. MUKAI'S THIRD-PARTY
COMPLAINT FILED ON SEPTEMBER 26, 2005

Third-Party Defendants SPORTS SHINKO (USA) CO., LTD.,
SPORTS SHINKO (HAWAII) CO., LTD., SPORTS SHINKO (MILILANI) CO.,
LTD., SPORTS SHINKO (KAUAI) CO., LTD., SPORTS SHINKO (PUKALANI)
CO., LTD., SPORTS SHINKO RESORT HOTEL CORPORATION, SPORTS SHINKO
(WAIKIKI) CORPORATION AND OCEAN RESORT HOTEL CORPORATION
(collectively, the "SS Entities"), by and through their
attorneys, Alston Hunt Floyd & Ing, hereby respond to Defendant
and Third-Party Plaintiff Franklin K. Mukai's ("Mukai") Third-
Party Complaint (the "Third-Party Complaint") filed herein on
September 26, 2005 as follows:

FIRST DEFENSE

1. The Third-Party Complaint fails to state a claim
upon which relief may be granted.

SECOND DEFENSE

2. In answer to Paragraph 1 of the Third-Party
Complaint, the SS Entities admit that Plaintiff Sports Shinko
Co., Ltd. ("SSJ") filed a Second Amended Complaint seeking
certain relief against Mukai, but responds that the Exhibit "A"
attached to the Third-Party Complaint speaks for itself and on
that basis denies any remaining allegations in that Paragraph.

3. In answer to Paragraph No. 2 of the Third-Party Complaint, the SS Entities admit that Sports Shinko (USA) Co., Ltd. was at all relevant times a Delaware corporation and that its principal place of business is not Hawai'i.

4. The SS Entities admit the allegations in Paragraph Nos. 3, 4, 5, 6, 7, 8, and 9 of the Third-Party Complaint.

5. In answer to Paragraph No. 10 of the Third-Party Complaint, the SS Entities admit the Court has jurisdiction pursuant to 28 U.S.C. § 1367 and principles of supplemental jurisdiction.

6. The SS Entities deny the allegations in Paragraph No. 11, 12, and 13 of the Third-Party Complaint and leave Mukai to his proof.

7. Any allegation not specifically admitted herein is denied.

THIRD DEFENSE

8. Mukai's acts and omissions, including his breaches of fiduciary duty, were a proximate cause of the injuries alleged by Plaintiff. During all relevant periods of time, the SS Entities acted through their former management, including Mukai; the SS Entities did not cause any injury to Plaintiff Sports Shinko (USA) Co., Ltd. except through the actions or omissions of Mukai and others.

FOURTH DEFENSE

9. Mukai's claims are barred by the doctrine of unclean hands.

FIFTH DEFENSE

10. The SS Entities intend to rely on every defense identified in Rules 8 and 12 of the Federal Rules of Civil Procedure which is supported by evidence adduced in discovery.

SIXTH DEFENSE

11. The SS Entities may rely on the defense of waiver and estoppel.

WHEREFORE, the SS Entities pray that this Court:

A. Dismiss the Third-Party Complaint against them with prejudice.

B. Award the SS Entities their attorneys' fees and costs herein.

C. Grant the SS Entities such further and other relief that the Court deems just and proper under the circumstances.

DATED: Honolulu, Hawai'i, January 13, 2006.



PAUL ALSTON
GLENN T. MELCHINGER

Attorneys for Plaintiff
and Third-Party Defendants,
the SS Entities

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date I caused a true and correct copy of the foregoing to be served on the following persons by facsimile, hand-delivery or U.S. mail, postage prepaid (as indicated below) to their respective addresses:

	HAND- DELIVERED	FAX	MAILED
WILLIAM A. BORDNER, ESQ. Suite 3100, Mauka Tower 737 Bishop Street Honolulu, HI 96813	()	()	(X)

Attorney for Defendant
and Third-Party Plaintiff
FRANKLIN K. MUKAI

WARREN PRICE, III, ESQ. ROBERT A. MARKS, ESQ. 728 Ocean View Center 707 Richards Street Honolulu, HI 96813	()	()	(X)
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Attorneys for Defendants
KIAHUNA GOLF CLUB, LLC; KG
KAUAI DEVELOPMENT, LLC;
PUKALANI GOLF
CLUB, LLC; KG MAUI
DEVELOPMENT, LLC; MILILANI
GOLF CLUB, LLC; QK HOTEL,
LLC;
OR HOTEL, LLC; AND
KG HOLDINGS, LLC

DATED: Honolulu, Hawai'i, January 13, 2006.


PAUL ALSTON
GLENN T. MELCHINGER

Attorneys for Plaintiff
and Third-Party Defendants,
the SS Entities